

NEVADA ROUNDTABLE



**Association of Western State Engineers
Spring Workshop
Sun Valley, Idaho**

**Jason King, P.E.
Deputy State Engineer
May 20-22, 2007**

Discussion Topics

- Factoids on our Division
- New State Engineer
- 2007 Legislative Session
- 2005 Session – New Positions
- Consumptive Use
- In-State Groundwater Importation
 - ▣ Spring Valley Hearing/Ruling
 - ▣ Snake Valley Negotiations
- Public Water Reserve Ruling

Nevada Water Resources

- ~90 employees
- Main Office in Carson City
 - Las Vegas
 - Elko
 - Winnemucca
 - Seasonal

Nevada Water Resources

Responsibilities

- Appropriation
- Adjudication
- Well Drilling Regulations
- Water Right Ownership
- Distribution & Regulation
- Water Planning
- Flood Plain Management
- Dam Safety
- Artificial Recharge
- Primary and Secondary Applications
- Subdivision Review

Nevada Water Resources



New State Engineer – Tracy Taylor (24 years with the Division)

Took over in June '06 from Hugh Ricci

Nevada Water Resources

□ 2007 Legislative Session

▣ Many water related bills

■ SB274 – Fines/Penalties (due to revenues, no add'l funds)

- \$10,000 per day
- Up to 200% repayment of water illegally taken
- Reimbursement of enforcement costs to the Division
- If bill passes, will have to promulgate regulations
- Injunctive relief

■ SB275 – Miscellaneous changes

- Gives priority to domestic wells as the date when it was drilled
- Domestic wells (exempt) 2 AFA, not 1,800 gpd
- Ok to have accessory bldg on domestic well
- Can require a county to require a water dedication for parceling.
- Relinquishment of valid right for parceling. Receive credit in future when purveyor hooks up the parcel.

Nevada Water Resources

□ 2007 Legislative Session

▣ Many water related bills

■ SB405

- Gives full and exclusive authority w/respect to availability, appropriation and allocation of water in the state.
- Provides wording specifically giving the S.E. the power to consider consumptive use of water rights in transfers from one manner of use to another.
- Ex parte communication w/notification to other parties afterwards
- Requires us to render a decision within 240 days after a hearing is held on a water right.

Nevada Water Resources

□ 2007 Legislative Session

□ AB285 – Reopens Protest Period

- If after 7 years, the S.E. hasn't taken any action on the application, he shall:
 - Post on his website for 45 days that the application has been reopened
 - Send a letter to the County Commissioners in the county where the water is to be exported, notifying them of the reopening.
 - Water right application must be for 250 AF or more of GW
 - Not retroactive

Nevada Water Resources

2005 – 11 New Positions

- 10 of 11 positions were filled by December 2005
- Performance Indicator – Reduce the Backlog of Water Right Applications
- Year of Reducing the Backlog' from December 1, 2005 to December 1, 2006. Goal was to reduce by 1,000.
- Results
 - 1049 Actions from Backlog
 - The most in the past 10 years
 - More than 2 times the average over the previous 9 years
 - Backlog is at its lowest since 1980 (~2,500)

Nevada Water Resources

Consumptive Use

- Starting issuing change permits for the consumptive use of the base right only.
- Lots of problems
 - Litigation – everyone surprised, no notification
 - Estimate of consumptive use was wrong
 - Didn't look to the future consumption
- Draft technical publication that has consumptive use figures for all weather stations in the state.

In-State Importation

- **In-State Resources** (Primarily GW but includes Virgin River filing)
 - ▣ Filed 146 applications in 1989 in 27 basins for the appropriation of 180,000 acre-feet of groundwater
 - ▣ Withdrew 32 applications from 10 of the basins
 - ▣ Twelve permits have been granted
 - Garnet and Hidden Valleys – 2200 afa
 - California Wash – 2500 afa
 - Tikapoo Valley North – 2587 afa
 - Tikapoo Valley South – 1700 afa
 - Three Lakes Valley North – 3700 afa
 - Three Lakes Valley South – 2618 afa
 - ▣ Remaining 102 applications have over 3,000 protests

Spring Valley Hearing/Ruling

- 19 Applications were filed in Spring Valley to appropriate ~91,000 Ac-Ft of groundwater
- Conducted 3 week hearing beginning September 11, 2006
- Issued Ruling No. 5726 on April 16, 2007 (56 pages)
- 30-day appeal period has run WITH NO APPEALS!
- Conditionally approved 15 applications
- Denied 4 applications due to impacts on existing rights – specifically spring sources
- Permit fees \$144,124
 - Works out to \$2.40/ac-ft to \$3.60/ac-ft

Spring Valley Ruling

Conditional Approval

- ❑ The total combined duty of water under Permits 54003 through 54015, 54019 and 54020 shall not exceed 60,000 acre-feet annually subject to the staged development guidelines as set forth in State Engineer's Ruling No. 5726, which includes:
- ❑ A monitoring and mitigation program approved by the State Engineer a minimum of five (5) years prior to the export of any water under these permits;
- ❑ A minimum of five (5) years of biological and hydrological baseline data shall be collected by the applicant and approved by the State Engineer prior to the applicant exporting any groundwater resources from Spring Valley under these permits;
- ❑ A minimum ten (10) year period which time a maximum of 40,000 acre-feet can be pumped in any one year with a ten consecutive year average of at least 35,000 acre-feet;

Spring Valley Ruling

Conditional Approval

- Filing an annual report with the State Engineer by March 15th of each year detailing the findings of the monitoring and mitigation plan; and
- If pumping impacts existing rights, conflicts with the protectible interests in existing domestic wells as set forth in NRS §533.024, threatens to prove detrimental to the public interest or is found to not be environmentally sound, the applicant will be required to curtail pumpage and/or mitigate the impacts to the satisfaction of the State Engineer.
- The State Engineer shall evaluate the effects of the initial pumpage and make a determination regarding the development of the additional 20,000 acre-feet of water.

Snake Valley Negotiations

“Lincoln County Conservation, Recreation, and Development Act of 2004” states:

Prior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of Nevada and the State of Utah shall reach an agreement regarding the **division of water resources of those interstate ground-water flow system(s)** from which water will be diverted and used by the project. The agreement shall **allow for the maximum sustainable beneficial use of the water resources and protect existing water rights.**

Public Water Reserve Ruling

- ▣ Ruling No. 5729, April 27, 2007
- ▣ Stockwater applications from a spring
 - BLM's Protest - The water is not available for appropriation under state law because it is a public water reserve. The lands contained in this public water reserve were withdrawn by Executive Order 107 of April 17, 1926 (43 CFR 2311).

Public Water Reserve Ruling

- Public Water Reserve Ruling
 - ▣ Ruling Conclusion - The purpose of the Executive Order creating PWR 107 was to prevent competing range users from monopolizing the public range through the control of isolated and important springs. With the advent of grazing allotments controlled by the BLM, such competition has been eliminated. Under the current system, only authorized range users possessing a grazing permit issued by the BLM are authorized on designated allotments. The State Engineer concludes that to issue a stockwater right to an authorized range user is consistent with the primary purpose of use of water under a PWR 107 claim.

Public Water Reserve Ruling



- ▣ Overruled the protest and issued permits.

**Thank You,
Questions?**

<http://water.nv.gov>